

of the accident was that the driver, George Morrill, of the car in which said John Smith was seated, was totally unfit to drive an auto by reason of the drink he had imbibed during the day, and that he evidently had lost his mental balance, and imaging that he was too near the right hand side of the road turned to the other side with fatal results. See *Beaulieu v. The Corporation of St. Urbain Premier* (1.) *Davignon v. The Corporation of the Municipality of Stanbridge Station* (2.)

"Considering that the late John Smith had voluntarily committed himself to the care and responsibility of the said George Morrill in sharing the latter's car, and the representative of the late John Smith is subject to the obligation which was assumed by the said late John Smith in making use of the said car while being driven by the said George Morrill.

"Considering that the proximate and determining cause of the said accident was not the negligence of the defendant, and the claim for damages on the part of the plaintiff against the defendant cannot be maintained.

"Doth, therefore, dismiss the action and demand of the said plaintiff with costs."

La manière dont cet accident est arrivé résulte de présomptions, mais elles sont suffisantes pour nous convaincre.

La route à l'endroit de l'accident était excessivement dangereuse; le chemin n'avait pas la largeur voulue par la loi; ce chemin a été évidemment établi depuis le 7 mai 1796. Par la loi 36 Geo III, ch. 9, paragraphe 2. "Tous chemins royaux doivent avoir 30 pds de largeur entre les deux fossés." il y avait depuis longtemps un trou dans le

(1) 22 C. S., 208.

(2) 14 S. C., 117.